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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/561,240

12/19/2005

Maurice Aloysius Evers

2001-1421

6235

466

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12/04/2008

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EXAMINER

LANGEL, WAYNE A

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

12/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/561,240	Applicant(s) EVERS ET AL.	
	Examiner Wayne Langel	Art Unit 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 21-36 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12-19-05</u> . | 6) <input type="checkbox"/> Other: ____. |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-36 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wommack et al '836. No distinction is seen between the fertilizer and method disclosed by Wommack et al '836, and that recited in applicant's claims. Wommack et al '836 discloses an agglomerate and method for its production, wherein the agglomerate may comprise urea, manure, a phosphate and lignosulphonate binder. (See col. 4, lines 28-47 and the paragraph bridging columns 4 and 5.) Wommack et al '836 also discloses in Examples 2 and 16 that the agglomerates are heated.

Claims 21-36 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Connell or Glover or Robinson. No distinction is seen between the fertilizers and methods disclosed by Connell and Glover and Robinson, and that recited in claims 21-36. Connell, Glover and Robinson all disclose fertilizer compositions comprising manure, urea and phosphates, wherein the compositions are heated. (See col. 1, line 15 to col. 2, line 14 and col. 4, lines 12-21 of

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Connell; col. 2, line 40 to col. 4, line 15 of Glover; and col. 3, line 21 to col. 6, line 14 of Robinson.) The fertilizer compositions of Connell, Glover and Robinson would inherently contain lignin, since manure inherently contains lignin. (See col. 1, lines 12-19 of Wilson (US 6,312,492)).

Claims 21-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Connell or Glover or Robinson in view of Wommack et al '836. Connell, Glover and Robinson all disclose fertilizer compositions comprising manure, urea and phosphates, wherein the compositions are heated. (See col. 1, line 15 to col. 2, line 14 and col. 4, lines 12-21 of Connell; col. 2, line 40 to col. 4, line 15 of Glover; and col. 3, line 21 to col. 6, line 14 of Robinson.) The difference between the compositions disclosed by Connell, Glover and Robinson, and that recited in applicants' claims, is that Connell, Glover and Robinson do not disclose that the composition should contain a lignosulfonate. Wommack et al '836 discloses the use of lignosulfonates as binders for fertilizer compositions at col. 4, lines 28-47. It would be obvious from Wommack et al '836 to include a lignosulfonate in the composition of Connell or Glover or Robinson to provide mechanical strength, as suggested at col. 4, lines 17-28 of Wommack et al '836.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 22, 27, 28 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 22, it is indefinite as to whether the organomineral fertilizer is required to have the composition recited therein, since this

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composition is recited in the preamble of claim 21, but there are no positive process steps recited in the main body of the claim which would require that the organomineral composition have such composition. In claim 27, it is indefinite as to whether the "organic fertilizer material" is required to be manure. In claim 32, the recitation of "one or more of...and" is improper Markush terminology.

The other references are made of record for disclosing various fertilizers containing manure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne Langel whose telephone number is 571-272-1353. The examiner can normally be reached on Monday through Friday, 8 am - 3:30 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Wayne Langel/
Primary Examiner, Art Unit 1793

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